

AMENDED IN ASSEMBLY JUNE 4, 2014

SENATE BILL

No. 1058

Introduced by Senator Leno
(Coauthor: Senator Anderson)
(Coauthor: Assembly Member Ting)

February 18, 2014

An act to amend Section 1473 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1058, as amended, Leno. Writ of habeas corpus.

Existing law authorizes every person unlawfully imprisoned or restrained of his or her liberty, under any pretense, to prosecute a writ of habeas corpus for specified reasons, including when false evidence that is substantially material or probative on the issue of guilt or punishment was introduced against the person at any hearing or trial relating to his or her incarceration.

This bill would ~~require~~ *provide*, for purposes of ~~these provisions, a writ of habeas corpus, that false evidence to include~~ *includes* opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or trial or that have been undermined by later scientific research or technological advances. *The bill would state that its provisions do not create additional liabilities, beyond those already recognized, for an expert who repudiates his or her original opinion or whose opinion has been undermined by later scientific research or technological advancements*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1473 of the Penal Code is amended to read:

1473. (a) Every person unlawfully imprisoned or restrained of his or her liberty, under any pretense, may prosecute a writ of habeas corpus to inquire into the cause of his or her imprisonment or restraint.

(b) A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

(1) False evidence that is substantially material or probative on the issue of guilt or punishment was introduced against a person at a hearing or trial relating to his or her ~~incarceration~~, or ~~incarceration~~.

(2) False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, which was a material factor directly related to the plea of guilty by the person.

(c) Any allegation that the prosecution knew or should have known of the false nature of the evidence referred to in subdivision (b) is immaterial to the prosecution of a writ of habeas corpus brought pursuant to subdivision (b).

(d) This section shall not be construed as limiting the grounds for which a writ of habeas corpus may be prosecuted or as precluding the use of any other remedies.

(e) (1) For purposes of this section, “false evidence” shall include opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or trial or that have been undermined by later scientific research or technological advances.

(2) *This section does not create additional liabilities, beyond those already recognized, for an expert who repudiates his or her original opinion provided at a hearing or trial or whose opinion has been undermined by later scientific research or technological advancements.*